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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,894	07/26/2001	Jon A. Brewster	10006968-1	8647

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P.O. Box 272400  
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EXAMINER

POKRZYWA, JOSEPH R

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/916,894

**Applicant(s)**

BREWSTER ET AL.

**Examiner**

Joseph R. Pokrzywa

**Art Unit**

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-11, 21 and 22 is/are allowed.
- 6) ☒ Claim(s) 1-6, 12-16 and 20 is/are rejected.
- 7) ☒ Claim(s) 7, 8 and 17-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.  |

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's amendment was received on 3/6/06, and has been entered and made of record. Currently, **claims 1-22** are pending.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1, 2, 6, 12, 13, and 20** are rejected under 35 U.S.C. 102(e) as being anticipated by Trosterud (U.S. Patent Number 6,322,262).

Regarding *claim 1*, Trosterud discloses a publication delivery system (see abstract, and column 4, lines 7-16) comprising a printing mechanism for printing copies of a publication before copies are requested by potential customers so that after a copy of the printed publication is requested by a customer (column 5, lines 35-41), the customer can receive the copy of the printed publication without having to wait for the printing mechanism to print the copy of the publication (column 5, lines 16-55), and a response system that monitors activity around a physical location of the publication delivery system in order to detect proximity of potential customers (column 4, lines 39-51, and column 5, lines 56-65), wherein timing and number of

Art Unit: 2625

copies of the publications printed by the printing mechanism is based on the activity level detected by the response system (column 4, lines 39-51, and column 5, lines 56-65), wherein an increased detected activity level, results in an increased number of copies of the publication being printed (column 4, lines 17-51, and column 5, lines 56-65).

Regarding *claim 2*, Trosterud discloses the system discussed above in claim 1, and further teaches that the system is a kiosk (see Figs. 1-3) and the publication is a newspaper (see Fig. 1).

Regarding *claim 6*, Trosterud discloses the system discussed above in claim 1, and further teaches of network access, the print delivery system using the network access to update content of the publication (see Fig. 3, column 4, line 63-column 5, line 14, and column 6, line 6-11).

Regarding *claim 12*, Trosterud discloses a method for distributing a publication by an automated publication delivery system (see abstract, and column 4, lines 7-16) comprising monitoring activity around a physical location of the automated publication delivery system in order to detect proximity of potential customers (column 4, lines 39-51, and column 5, lines 56-65), and in response to detection of an increased activity level around the physical location of the automated publication delivery system, printing additional copies of the publication for distribution (column 4, lines 17-51, and column 5, lines 56-65) so that copies are already printed before being ordered by customers so that after a copy of the printed publication is ordered by a customer, the customer can receive the copy of the printed publication without having to wait for the printing mechanism to print the copy of the publication (column 5, lines 16-55).

Regarding **claim 13**, Trosterud discloses the method discussed above in claim 12, and further teaches that the automated publication delivery system is a kiosk (see Figs. 1-3) and the publication is a newspaper (see Fig. 1).

Regarding **claim 20**, Trosterud discloses the method discussed above in claim 12, and further teaches of using network access by the automated print delivery system to update content of the publication (see Fig. 3, column 4, line 63-column 5, line 14, and column 6, line 6-11).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 3-5 and 14-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Trosterud (U.S. Patent Number 6,322,262) in view of Axler *et al.* (U.S. Patent Number 5,305,197, cited in the Office action dated 1/23/06).

Regarding **claims 3-5, and 14-16**, Axler discloses the systems and methods discussed above in claims 1 and 12, respectively, but fails to expressly disclose if the response system includes a microphone that is used to monitor noise level, an optical sensor to detect movement near the publication delivery system, and a motion detector used to detect movement near the publication delivery system.

Axler discloses a publication delivery system (see Fig. 14) comprising a printing mechanism for printing copies of a publication (column 4, line 46-column 5, line 33), and a

Art Unit: 2625

response system that monitors activity around a physical location of the publication delivery system in order to detect proximity of potential customers (see abstract, and column 6, line 37-column 7, line 31), wherein timing and number of copies of the publications printed by the printing mechanism is based on the activity level detected by the response system (column 6, line 37-column 7, line 31), wherein an increased detected activity level, results in an increased number of copies of the publication being printed (column 6, line 37-column 7, line 31). Further, Axler teaches that the response system includes a microphone that is used to monitor noise level (column 5, lines 34-60), that the response system includes an optical sensor to detect movement near the publication delivery system (column 6, line 37-column 7, line 31), and that the response system includes a motion detector used to detect movement near the publication delivery system (column 6, line 37-column 7, line 31).

Trosterud & Axler are combinable because they are from the same field of endeavor, being systems that vend printed data. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to utilize the response system taught by Axler within the system of Trosterud. The suggestion/motivation for doing so would have been that the system of Trosterud would have an increased chance of attracting a customer's attention, as recognized by Axler in column 6, line 37-column 7, line 6. Therefore, it would have been obvious to combine the teachings of Axler with the system of Trosterud to obtain the invention as specified in claims 3-5 and 14-16.

***Allowable Subject Matter***

6. **Claims 9-11, 21, and 22** are allowed.
7. **Claims 7, 8, and 17-19** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Citation of Pertinent Prior Art***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

**Nelson *et al.*** (U.S. Patent Number 5,845,577) discloses a newspaper stand;

**Smith** (U.S. Patent Number 5,860,362) discloses a newspaper vending machine;

**Wang** (U.S. Patent Number 6,535,791) discloses an electronic information vending machine; and

**Schneider** (U.S. Patent Application Publication 2002/0078171) discloses a document delivery system.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

Art Unit: 2625

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Pokrzywa whose telephone number is (571) 272-7410. The examiner can normally be reached on Monday-Friday, 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on (571) 272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joseph R. Pokrzywa  
Primary Examiner  
Art Unit 2625

jrp

